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Delivered via Email

January 25, 2023

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, Ontario
K1A 0A2

Dear Prime Minister Trudeau,

RE: Bail Reform

We write to expand on the Premiers' recent call and Mayor John Tory's longstanding call for an amendment to the bail provisions of the *Criminal Code*, and urge the government of Canada to go further. While the measure advocated unanimously by the Premiers of Canada may assist in preventing the rise of gun offences being committed by those on release of serious firearms offences, the Toronto Police Services Board (Board) and the Toronto Police Service (Service) have analyzed available data, and continue to say that more is needed — both at the bail stage and the sentencing stage — to address the traumatic impact that gun violence continues to have on our communities.

Our additional proposals have been endorsed by Ontario's police chiefs and police services boards

We have already communicated our recommendations to the Minister of Justice and Attorney General, as well as to the Minister of Public Safety, as well as senior officials in the government of Canada.

Having just recently heard your government's willingness to explore reforms, we want to bring three proposals directly to your attention so they can be carefully considered alongside the Premiers' request and other requests you may receive. These recommendations, while originating in Toronto, have been described as "thoughtful and measured" in endorsements by many other organizations, including the Ontario Association of Chiefs of Police and the Ontario Association of Police Services Boards — the organizations that represent the voices of police chiefs and police services boards in Ontario.

What the data tells us

Toronto, along with communities big and small across Ontario and Canada, continue to deal with a troubling number of incidents of gun and gang violence, and far too often, they involve individuals who are out on bail at the time. Even more troubling is that the charges these individuals are on bail for are, frequently, other firearms offences. Our analysis of Toronto data from 2021 and 2022 outlines with real numbers some of what is described above, and should be viewed in the context of illegal firearm offences as one of the most serious threats to public safety in Canada.

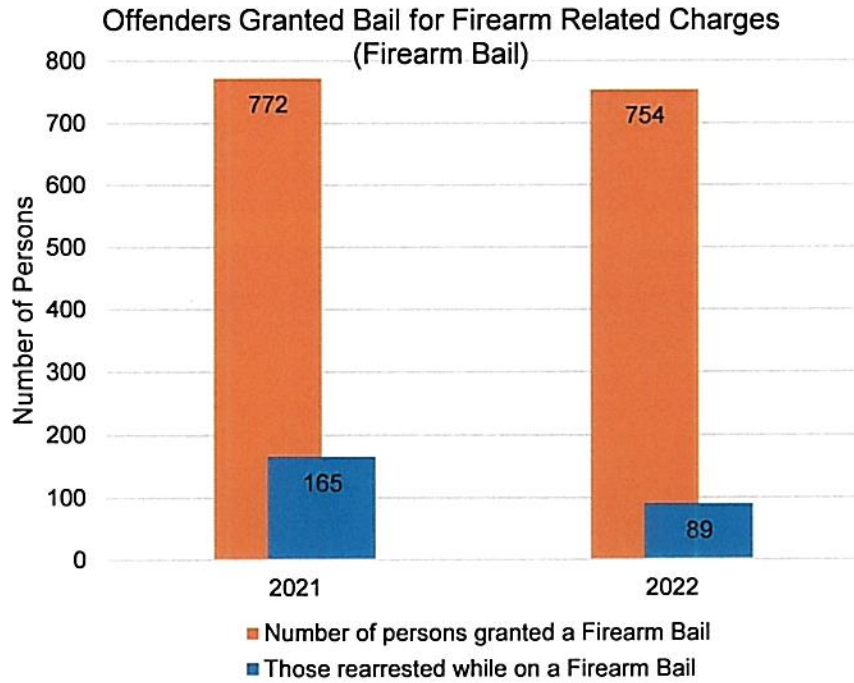
In 2022, Toronto experienced 44 shooting-related homicides. Of those arrested and charged for these offences:

- **7** accused persons were on a **firearm-related bail** at the time they were alleged to have committed the offence, and,
- **17** accused persons were on **any type of bail** at the time they were alleged to have committed the offence.

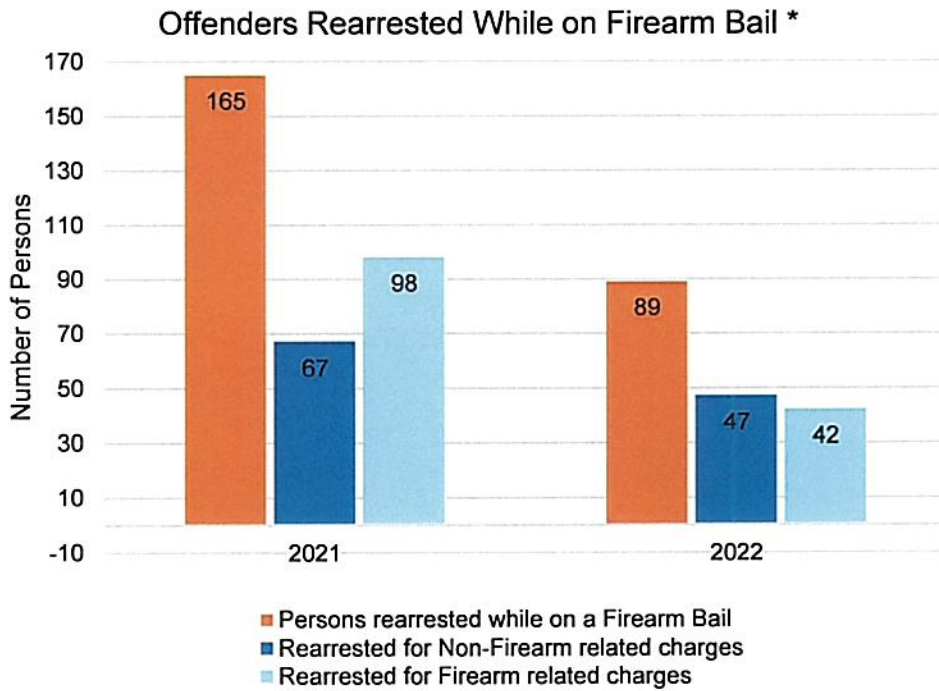
In 2021, Toronto experienced 46 shooting-related homicides. Of those arrested and charged for these offences:

- **8** accused persons were on a **firearm-related bail** at the time they were alleged to have committed the offence, and,
- **17** accused persons were on **any type of bail** at the time they were alleged to have committed the offence.

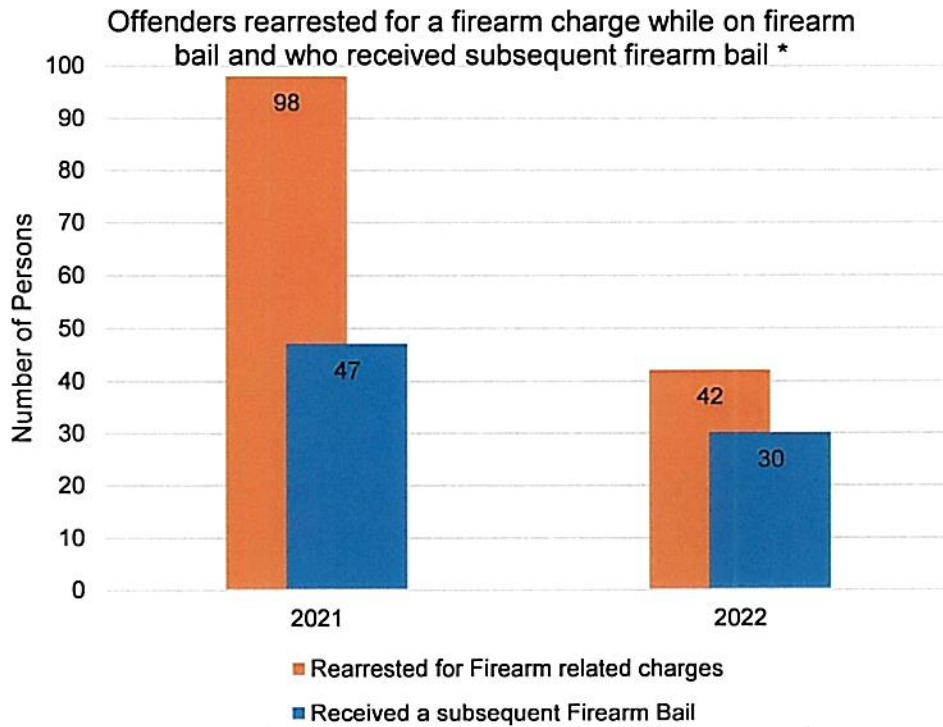
The following additional analysis outlines our experience with those accused persons who are **granted bail for a firearm-related offence that are alleged to have committed new firearm related offences or otherwise breach the terms of their judicial release order:**



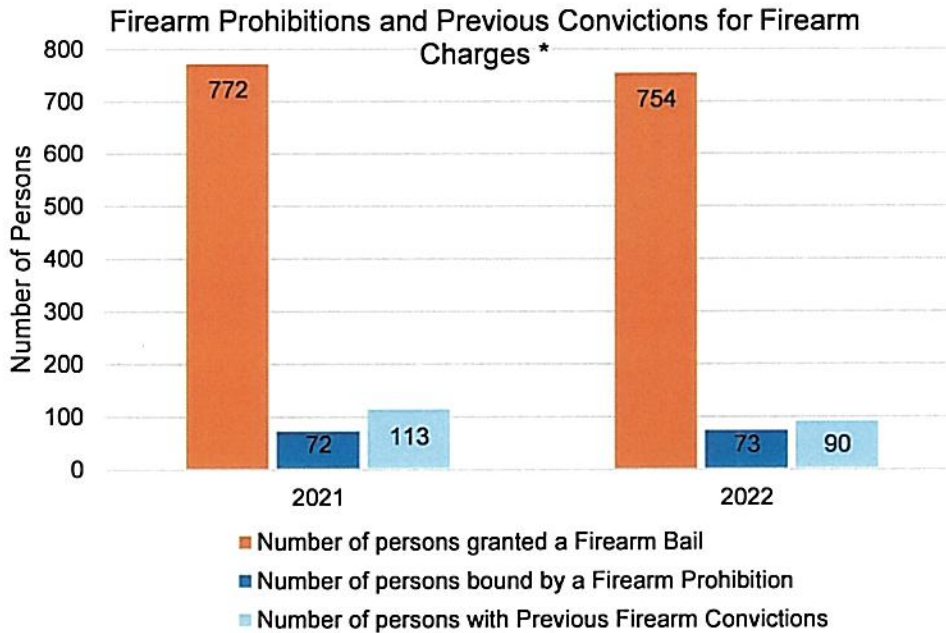
* In 2021 - 46 persons received multiple firearm bails within the year
 15 persons had 5 or more previous Firearm Convictions
 **In 2022 - 50 persons received multiple Firearm Bails within the year
 11 persons had 5 or more previous Firearm Convictions



* This data is a subset of the 'Offenders Granted Bail for Firearm Related Charges (Firearm Bail)' dataset.



* This data is a subset of the 'Offenders Rearrested While on Firearm Bail' dataset.



* This data is a subset of the 'Offenders Granted Bail for Firearm Related Charges (Firearm Bail)' dataset.

In 2022, Toronto alone had 1,615 persons on a firearm bail residing in the city. This represents not only people charged in Toronto but also those charged in other jurisdictions and live in Toronto. It also includes those whose bail spans multiple years as they await trial. This truly demonstrates the multi-jurisdictional complexity of this issue.

The data tells us that this is a community safety concern that must never be normalized, and deserves the greatest focus of all community safety and well-being partners including, public health, social services, education, justice partners, and the police and police governance bodies. It also deserves the greatest attention from governments who have legislative tools that can be brought to bear.

In addition, the number of recent incidents when police officers have been tragically killed in the line of duty is of tremendous concern, both to the policing community and to the communities we serve and protect.

It is incumbent upon us to take all possible steps to reduce the gun violence that we are seeing and to ensure that our bail system offers the level of protection it was designed to provide, and which the people of Canada deserve.

The three specific proposals

In that regard, the Board and the Service commend the following three additional potential reforms to your Government for consideration. A full explanation of the rationale for these potential reforms is available in the public report authored by the Service, and which was considered and endorsed by the Board — including Mayor John Tory, a long-time and consistent proponent of bail reform — at its meeting of May 2, 2022. For your convenience, we enclose a copy of this report.

First, we recommend an additional route to the charge of First Degree Murder under Section 231 of the *Criminal Code*, by including a death that results from the discharge of a firearm in a congregate setting. We believe that this additional route would act as a strong deterrent to potential offenders, and clearly express Parliament's disapprobation of this conduct.

Second, we recommend that bail hearings for the most serious firearms offences be heard by a Judge of the Superior Court, or at least a Judge of the Provincial Court. Although this may be allowed by the current law, it simply does not happen; these bail decisions are almost exclusively being made by Justices of the Peace, who are often not legally trained. Making this mandatory, rather than permissible, would clearly convey Parliament's view of the seriousness of these offences (and their impact on the fabric of Canadian society), as well as reflect the legitimate views and concerns of the public about these incidents. It would ensure that decisions on release or detention for the most serious allegations were made by those who sit in judgment on the ultimate trials and sentencing hearings related to these same firearms offences. Judges are uniquely positioned to understand all the issues at play and the true impact of gun violence, and bring these professional perspectives to bear on the decisions about bail for firearm offences.

Third, we recommend that sentencing judges be given the ability (not mandatory, but discretionary) to increase parole ineligibility to two-thirds (2/3) of a custodial sentence when the court finds that an offender has discharged a firearm in a congregate setting in committing the offence. We also recommend that this ability on sentencing be extended to those who are found to be parties to such offences.

The Board and Service remain deeply committed to applying a community safety and well-being approach to reducing risk, by effectively intervening in a manner that supports the individual so as to prevent future offending and putting in place measures to reduce overall victimization. We believe our three proposals are not in conflict with that general approach, as they relate only to those charged with or convicted of the most serious offences, and according to our data, a relatively small group of dangerous individuals who engage in firearm related offences. Indeed one of the initiatives we are also developing in concert with the Crown Attorneys is the development of Community Impact Statements to be used on these serious offences so that the Courts considering bail will better understand the impact of these occurrences on the communities where they occur. We will co-develop, co-design and co-deliver these Community Impact Statements with the communities and the Crown Attorneys in such a way that the communities feel heard and are heard and that their rights are appropriately balanced along with those of the accused person. While we believe that Community Impact Statements are admissible under the rules currently governing bail hearings, we encourage your government to explicitly endorse them in any reform of the bail provisions.

All of these reforms will help ensure serious firearms offences are more effectively dealt with at both the bail and sentencing phases of criminal proceedings. They will have little to no impact on the *Charter* rights of the individual accused person or convicted individual, and where they do have an impact, we are of the view that it is based on the pressing and substantial objective of maintaining community safety, as well as police officer safety as they carry out their sworn duties. We believe any impacts would meet the other criteria of section 1 of the *Charter*.

The communities we serve, and the policing community, have been traumatically impacted by gun violence

We close noting that the circumstances surrounding the tragic, senseless and preventable death of Ontario Provincial Police Officer Grzegorz Pierzchala regrettably, and most recently illustrates the need for these reforms, and the exploration of additional measures to address the devastating impacts of gun violence.

Gun violence and associated gang activity continue to be the most significant community safety concerns to the people of Toronto, and indeed, for communities across Canada. This criminal behaviour has a direct impact on victims, their families and our neighbourhoods as a whole. Members of our Service witness every day the horrific, traumatic, and life-altering impact that gun violence has on the communities we serve. If the reforms suggested have the potential to reduce this impact by any degree, then it is incumbent on all of us to act in our respective spheres of influence. We urge your Government to give immediate attention to these carefully considered, and evidence-based reforms.

If you require further information, or wish to discuss these matters in more detail, we would be pleased to do so.

Yours sincerely,



Ainsworth Morgan
Chair
Toronto Police Services Board



Myron Demkiw, M.O.M.
Chief of Police
Toronto Police Service

Encl. Toronto Police Services Board Report: Opportunities for Bail and Related Reforms to Enhance Community Safety

cc: The Honourable David Lametti, Minister of Justice and Attorney General of Canada
The Honourable Marco Mendicino, Minister of Public Safety
The Honourable Doug Ford, Premier of Ontario
The Honourable Michael Kerzner, Solicitor General
The Honourable Doug Downey, Attorney General of Ontario
His Worship John Tory, Mayor, City of Toronto
Ryan Teschner, Executive Director and Chief of Staff, Toronto Police Services Board
Mario Di Tommaso, Deputy Solicitor General (Community Safety)
Commissioner Thomas Carrique, Ontario Provincial Police
Chief Danny Smyth, President, Canadian Association of Chiefs of Police
Aviva Rotenberg, Executive Director, Canadian Association of Chiefs of Police
Andrew Minor, President, Canadian Association of Police Governance
Patrick Weaver, Chair, Ontario Association of Police Services Boards
Lisa Darling, Executive Director, Ontario Association of Police Services Boards
Chief Nishan Duraiappah, President, Ontario Association of Chiefs of Police
Jeff McGuire, Executive Director, Ontario Association of Chiefs of Police